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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,084	12/30/2003	Jeffrey A. Tilton	25352A	7972
22889	7590	08/11/2005	EXAMINER	
OWENS CORNING 2790 COLUMBUS ROAD GRANVILLE, OH 43023			TORRES VELAZQUEZ, NORCA LIZ	
			ART UNIT	PAPER NUMBER
			1771	
DATE MAILED: 08/11/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/749,084

Applicant(s)

TILTON ET AL.

Examiner

Norca L. Torres-Velazquez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) 22-36 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 and 37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 81204.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-21 and 37, drawn to a polymer fiber blanket, classified in class 442, subclass 357.
 - II. Claims 22-36, drawn to a method, classified in class 264, subclass 175.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the blanket can be made by ultrasonic bonding.

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

4. During a telephone conversation with James Dottavio on August 5, 2005 a provisional election was made with traverse to prosecute the invention of group I, claims 1-21 and 37. Affirmation of this election must be made by applicant in replying to this Office action. Claims 22-36 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the

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currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

7. Claims 1-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Independent claim 1 claims a polymer fiber blanket that comprises a plurality of individual pieces of polymer fiber blanket... The language construction of the claim is very confusing, how the polymer fiber blanket comprises a polymer fiber blanket? The Examiner advises using language that clearly differentiates the individual elements that form the blanket from the blanket itself.

8. *It is noted herein, that claim 37 claims a density from 32-800 kg/m³, is this Applicant's intention? Please, clarify if the range is from 32-800.0 kg/m³ or if Applicants meant from 32-80.0 kg/m³.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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10. Claims 1-21 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over TILTON (US 2004/0023586A1) in view of JP58145435.

TILTON discloses a fibrous blanket material 10 having a first fibrous layer and a layer of meltblown polypropylene. (Abstract) In Figure 1 of the reference (shown below), shows the polypropylene meltblown layer 14 and the first fibrous blanket layer 12. The first fibrous layer 12 typically is provided with a thickness of between about 0.5 to about 8.0 cm. The first fibrous layer has an average fiber diameter of between about 10.0 and about 30.0 microns and a density of between about 0.5 and about 8.0 lbs/ft³ [8-128 kg/m³]. The layer 14 of meltblown polypropylene fibers has a thickness of between about 0.0127 to about 0.254 cm, a weight of between about 0.5 to about 10.0-ounces/sq. yard [0.01695-0.3391 kg/m²]. The meltblown polypropylene fibers of the layer 14 have an average diameter of between about 2.5 to about 50.0 microns. (Refer to paragraphs [0023-0024])

The Examiner equates layer 14 of TILTON to the presently claimed skin layer. The Examiner has calculated the density of this layer based upon the basis weight and the thickness of the layer taught by TILTON. A density of 133 kg/m³ is obtained when the layer has a basis weight of 0.5 oz/yd² [0.01695kg/m²] at a thickness of 0.0127 cm. Therefore, a density of 133 kg/m³ meets the limitation of at least 50 kg/m³ claimed herein. It is further noted, that with the range of values for the thickness and basis weight taught by TILTON, densities as low as 6.67 kg/m³ can be obtained. Layer 12 of TILTON is equated to the claimed lofty portion. The thickness of the fibrous blanket layer 12 of TILTON has a thickness of about 5 mm to about 80 mm.

Layer 14 of TILTON has a thickness of 0.0127-0.254 cm [0.127 – 2.54 cm]. (Refer to [0024]) TILTON teaches average fiber diameter from 2.5 to 50 microns. (Refer to [0024])

It is noted that the reference also teaches using fiber material such as polyester and fiberglass. (Refer to [0026]) The reference teaches a thickness of between about 0.5 and about 8.0 cm [5-80 mm] for layer 12. (Refer to [0023]) The reference further teaches that layer 12 is formed by any suitable manner known in the art and that it may incorporate multicomponent fibers. (Refer to [0028])

It is the Examiner's interpretation that the fibrous blanket of TILTON read on the polymer blanket product forming the individual pieces of the present invention.

However, the reference fails to teach cutting the blanket and then thermally bonding them to form the compressible, flexible, polymer fiber blanket of the present invention.

The JP'435 reference teaches a heat-insulating sheet formed by cutting pieces of heat-insulating material and then assembling them into a heat-insulating sheet. (Abstract)

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the fibrous blanket of TILTON by cutting the blanket in pieces and re-assembling it with the motivation of being able to introduce some waste heat-insulating materials into the arrangement and reduce the cost of the materials and incinerating costs as taught by JP '435. *[It is noted that the claims of the present invention have a comprising language that does not preclude from the inclusion of other elements.]*

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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ROBERTSON et al. (US 5,361,466) – disclose a synthetic microfiber blanket formed from a nonuniform blanket that is cut into a plurality of discrete pieces of blanket and then joined into an integral blanket of uniform width and thickness by entangling together fibers of adjacent pieces of blanket. (Abstract) The reference teaches that no binders are required. (Col. 1, lines 66-67)

Double Patenting

12. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

13. Claims 1-22 and 37 provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-36 of copending Application No. 10/629,099 in view of JP 58145435. The copending application provides a polymer fiber blanket with a structure similar to the individual pieces of polymer fiber blanket of the present invention. However, the reference fails to teach cutting the blanket and then thermally bonding them to form the compressible, flexible, polymer fiber blanket of the present invention.

The JP'435 reference teaches a heat-insulating sheet formed by cutting pieces of heat-insulating material and then assembling them into a heat-insulating sheet. (Abstract)

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Therefore, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the fibrous blanket by cutting the blanket in pieces and re-assembling it with the motivation of being able to introduce some waste heat-insulating materials into the arrangement and reduce the cost of the materials and incinerating costs as taught by JP '435. *[It is noted that the claims of the present invention have a comprising language that does not preclude from the inclusion of other elements.]*

This is a provisional obviousness-type double patenting rejection.

14. Claims 1-22 and 37 provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-36 of copending Application No. 10/211,407 in view of JP 58145435. The copending application provides a polymer fiber blanket with a structure similar to the individual pieces of polymer fiber blanket of the present invention. However, the reference fails to teach cutting the blanket and then thermally bonding them to form the compressible, flexible, polymer fiber blanket of the present invention. The JP'435 reference teaches a heat-insulating sheet formed by cutting pieces of heat-insulating material and then assembling them into a heat-insulating sheet. (Abstract)

Therefore, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the fibrous blanket by cutting the blanket in pieces and re-assembling it with the motivation of being able to introduce some waste heat-insulating materials into the arrangement and reduce the cost of the materials and incinerating costs as taught by JP '435. *[It is noted that the claims of the present invention have a comprising language that does not preclude from the inclusion of other elements.]*

This is a provisional obviousness-type double patenting rejection.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Norca L. Torres-Velazquez whose telephone number is 571-272-1484. The examiner can normally be reached on Monday-Thursday 8:00-5:00 pm and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Norca L. Torres-Velazquez
Primary Examiner
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August 8, 2005